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# **Canadian Income Tax Law: Cases, Text, and Materials**

## **Volume III**

David G. Duff  
Faculty of Law  
University of Toronto  
2000

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# Part III

## Computation of Income or Loss

Having examined the various sources from which a taxpayer may derive income, the next step in determining the taxpayer's tax payable is to compute the taxpayer's income from each source separately and net income from all sources under section 3. As explained in Chapter 1, the computation of net income under section 3 involves the addition of the taxpayer's income from all sources, including what can be referred to as "net taxable capital gains" in paragraph 3(b), the subtraction of deductions permitted under subdivision e (except to the extent that they are taken into account in determining the taxpayer's income from specific sources under paragraph 3(a)), and the subtraction of losses from various sources as specified in paragraph 3(d). This computation, moreover, involves the allocation of specific amounts to each taxation year.

This Part of the casebook considers the computation of a taxpayer's income or loss for a taxation year, reviewing statutory and judicial rules applicable to each of the sources examined in Part II of the casebook, statutory deductions permitted by subdivision e, and computational rules in subdivision f. Chapter 8 reviews the computation of a taxpayer's income or loss from an office or employment, examining statutory and judicial rules governing allowable deductions, the taxation year in which inclusions and deductions are recognized for tax purposes, and losses from an office or employment. Chapter 9 considers the computation of a taxpayer's income or loss from a business or property, also examining allowable deductions, the recognition of inclusions and deductions, and rules relating to allowable losses. Chapter 10 examines statutory and judicial rules governing taxable capital gains and allowable capital losses. Chapter 11 considers deductions permitted by subdivision e. Chapter 12 examines key computational rules found in subdivision f.



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# Chapter 9

## Income or Loss from a Business or Property

### A. Introduction

The computation of a taxpayer's income or loss from a business or property is governed by subdivision b of Division B of Part I of the Act (sections 9 to 37.3). Subsection 9(1) defines the income of a taxpayer from a business or property as the "profit" from that business, a concept which implies the prior deduction of reasonable expenses incurred in order to obtain the income.<sup>1</sup> Subsection 9(2) defines a taxpayer's loss from a business or property as "the taxpayer's loss, if any, for the taxation year from that source computed by applying the provisions of this Act respecting computation of income from that source with such modifications as the circumstances require." Subsection 9(3) stipulates that the expressions "income from a property" and "loss from a property" do not include capital gains or losses from the disposition of that property. Sections 12 to 17 specify various amounts that must be included in computing a taxpayer's income from a business or property. Sections 18 to 21 contain numerous rules both limiting and permitting the deduction of specific amounts in computing a taxpayer's income from a business or property. Sections 22 to 25 apply where a taxpayer ceases to carry on a business, while sections 26 to 37.3 apply to special cases as indicated.

Building on the earlier analysis in chapter 5, this chapter examines the various statutory and judicial rules governing the computation of a taxpayer's income from a business or property. Section B considers rules governing the deduction of amounts in computing a taxpayer's income from a business or property. Section C examines various timing rules defining the accounting period in which amounts are included and deducted in computing a taxpayer's income from a business or property. Section D considers various special rules applicable to the computation of a taxpayer's income or loss from inventory.

### B. Deductions

In examining the reasonable expectation of profit test in *Tonn v. The Queen*,<sup>2</sup> Linden, J.A., reviewed the relationship between this test and various statutory rules

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<sup>1</sup>See, e.g., *Symes v. M.N.R.*, [1994] 1 C.T.C. 40, 94 D.T.C. 6001 (S.C.C.) per Iacobucci, J., citing *Daley v. M.N.R.*, [1950] C.T.C. 254, 4 D.T.C. 877 (Ex. Ct.).

<sup>2</sup>This case is excerpted in chapter 5, *supra*.

